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SCOTTISH STATUTORY INSTRUMENTS

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**2009 No. 173**

**The Swine Vesicular Disease (Scotland) Order 2009**

**PART 1**

**Introduction**

**Citation, commencement and extent**

1.—(1) This Order may be cited as the Swine Vesicular Disease (Scotland) Order 2009 and comes into force on 25th May 2009.

(2) This Order extends to Scotland only.

**Interpretation**

2. In this Order—

“carcase” means a carcase or part of a carcase of a pig;

“disinfectant” means a disinfectant approved under the Diseases of Animals (Approved Disinfectants) (Scotland) Order 2008(1);

“Divisional Veterinary Manager” means the veterinary inspector authorised by the Scottish Ministers to receive a notification under article 16 for the area in which a pig or carcase is situated or sample is examined;

“livestock” means a domesticated hoofed animal other than a horse;

“pig” means any animal of the *Suidae* family; and

“premises” includes any place.

**Application**

3.—(1) This Order does not apply to—

(a) anything done under the terms of a licence granted under the Specified Animal Pathogens (Scotland) Order 2009(2);

(b) any quarantine centre or quarantine facility approved under the Animals and Animal Products (Import and Export) (Scotland) Regulations 2007(3).

(2) Article 17 (controls on notification), and Chapters 2 (suspicion) and 3 (infection) of Part 4 (disease control measures) of this Order do not apply to a slaughterhouse.

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(1) S.S.I. 2008/219.

(2) S.S.I. 2009/45.

(3) S.S.I. 2007/194, amended by S.S.I. 2007/375 and 2008/155.

## PART 2

### General

#### **Power to slaughter**

4. Section 32 of the Animal Health Act 1981 applies to swine vesicular disease.

#### **Epidemiological inquiry**

5.—(1) Where an epidemiological inquiry is required under this Order, it must try to establish at least—

- (a) the length of time that swine vesicular disease virus may have existed on premises;
- (b) the origin of that virus;
- (c) the identification of other premises contaminated with that virus from the same source;
- (d) the movement of any person or thing which could have carried that virus to or from the premises; and
- (e) the possibility that pigs living in the wild may be involved in the spread of that virus.

(2) An epidemiological inquiry must, unless discontinued under this Order, proceed until the facts relevant to the inquiry are, so far as is practicable, established.

#### **Cleansing and disinfection**

6. Cleansing and disinfection required under this Order must be carried out in such a way as to minimise the risk of spread or survival of swine vesicular disease virus.

#### **Duty to comply with conditions**

7.—(1) A person who does any thing, or carries out an activity, authorised by or required under a measure must comply with any condition of that measure relating to the thing or activity.

(2) In this article, “measure” means an approval, declaration, designation, direction, licence or notice given or granted under this Order.

#### **Declarations of zones**

8.—(1) A declaration of a zone under this Order must be in writing, and—

- (a) must specify the extent of the zone being declared;
- (b) may be subject to conditions or other measures necessary to prevent the spread of swine vesicular disease;
- (c) may, unless specified otherwise in this Order, be amended, suspended or revoked by further declaration.

(2) Any premises—

- (a) partly inside a protection zone are treated as being inside that zone;
- (b) in both a surveillance zone and a free area are treated as being inside that zone;
- (c) in both a temporary control zone and a free area are treated as being inside that zone;
- (d) partly inside a vaccination zone are treated as being inside that zone.

### **Approvals and other measures**

**9.** An approval, declaration, designation, direction or notice under this Order must be in writing, and may be—

- (a) subject to conditions or other measures necessary to prevent the spread of swine vesicular disease; and
- (b) amended, suspended or revoked in writing at any time.

### **Licences**

**10.—(1)** A licence granted under this Order must be in writing, and may be—

- (a) general or specific;
- (b) subject to conditions necessary to prevent the spread of swine vesicular disease; and
- (c) amended, suspended or revoked in writing at any time.

**(2)** A person moving anything under the authority of a specific licence must—

- (a) carry the licence or a copy of it at all times during the movement;
- (b) on demand by an inspector or an officer of the Scottish Ministers or a constable, produce the licence or copy and allow a copy or extract to be taken; and
- (c) keep the licence for at least 6 months after the movement.

**(3)** A person moving anything under the authority of a general licence must—

- (a) carry, at all times during the movement, a consignment note specifying—
  - (i) what is being transported, including the quantity;
  - (ii) the date of the movement;
  - (iii) the names of the consignor and consignee;
  - (iv) the address of the premises of origin and destination;
- (b) on demand by an inspector or an officer of the Scottish Ministers or a constable, produce the consignment note and allow a copy or extract to be taken; and
- (c) keep the consignment note for at least 6 months after the movement.

**(4)** A licence granted in England or Wales for an activity which could be licensed under this Order shall, unless the Scottish Ministers direct otherwise, have effect in Scotland as if it were a licence granted under this Order.

### **Service of notices**

**11.** A notice to be served on an occupier of premises is so served—

- (a) if served on a person appearing to the server to have responsibility for the premises or for a pig on the premises; or
- (b) if served by leaving the notice fixed to a prominent building or object on the premises when—
  - (i) the name and address of an occupier cannot, after reasonable inquiry, be ascertained; and
  - (ii) there is no person at the premises on whom service can be effected in accordance with paragraph (a).

### **Animal health or welfare**

- 12.** The Scottish Ministers may for the purpose of ensuring the health or welfare of any animal—
- (a) license a person to carry out any action that is otherwise prohibited under this Order; or
  - (b) exempt a person, by notice, from any requirement under this Order.

### **Warning signs**

- 13.—**(1) A warning sign must be erected and maintained in accordance with this article.
- (2) A warning sign—
- (a) must be erected by the occupier of—
    - (i) suspected premises, on designation of the premises; or
    - (ii) infected premises, on declaration under article 22,at each entrance to the premises, and in compliance with any direction by an inspector;
  - (b) must state that unauthorised entry to the premises is prohibited;
  - (c) must be maintained by the occupier;
  - (d) must be removed by the occupier immediately after the premises cease to be—
    - (i) suspected premises, and are not declared to be infected premises; or
    - (ii) infected premises;
  - (e) may be erected or removed by a veterinary inspector or inspector.
- (3) A veterinary inspector or inspector who erects or removes a warning sign may recover the cost of doing so from the occupier.

## **PART 3**

### **Conservation and related measures**

#### **Pigs kept for conservation or research**

- 14.—**(1) The Scottish Ministers may by notice exempt a pig from slaughter or killing under this Order if the pig is kept for a purpose relating to—
- (a) the conservation of species or genetic resource;
  - (b) scientific research;
  - (c) breeding for such research.
- (2) A biosecurity notice—
- (a) must be served when the veterinary inspector is satisfied that it is necessary to do so in order to prevent or reduce the risk of the spread of swine vesicular disease;
  - (b) may be served when the veterinary inspector considers that it is expedient to do so in order to prevent or reduce that risk.
- (3) In this article, “biosecurity notice” means a notice by a veterinary inspector to the occupier of premises at which an exempted pig is kept requiring the occupier to ensure the performance of the biosecurity measures specified in the notice.

#### **Pigs living in the wild**

- 15.—**(1) This article applies in respect of a pig living in the wild.

(2) An authorised person may enter any premises where a pig is present, or suspected to be present, and—

- (a) undertake surveillance for pigs;
- (b) sedate or capture (with or without sedation) a pig;
- (c) take samples from a pig;
- (d) kill a pig provided that a veterinary inspector is satisfied that—
  - (i) the pig is suspected of being infected with swine vesicular disease, and it is not practicable to take a sample without killing the pig; or
  - (ii) the pig is infected with swine vesicular disease.

(3) An authorised person may dispose of a pig after capture, or the carcase of a pig after killing, in such manner as the person considers is necessary or expedient in order to remove or reduce the risk of the spread of swine vesicular disease.

(4) In this article, “an authorised person” means—

- (a) for the purposes of sedating, capturing or killing a pig, a—
  - (i) veterinary inspector; or
  - (ii) person acting under the instructions of a veterinary inspector for any one or more of those purposes;
- (b) for the purpose of taking a sample from a live pig, a veterinary inspector;
- (c) for all other purposes, a veterinary inspector, an inspector, or an officer of the Scottish Ministers acting under the instruction of a veterinary inspector.

## PART 4

### Disease control measures

#### CHAPTER 1

##### Notification

#### **Notification of suspicion**

**16.—**(1) A person in possession or charge of, or who inspects or examines, a pig or carcase, and who suspects that the pig is infected or the carcase is contaminated with swine vesicular disease virus must immediately notify the Divisional Veterinary Manager.

(2) A person who examines a sample taken from a pig or carcase who—

- (a) suspects that the pig is infected or the sample is contaminated with swine vesicular disease virus; or
- (b) detects evidence of antibodies to, or antigens of, or a fraction of, that virus,

must immediately notify the Divisional Veterinary Manager.

#### **Controls on notification**

**17.—**(1) This article applies to a person in possession or charge of a pig or carcase who gives notification under article 16.

(2) That person must ensure that, unless approved by a veterinary inspector—

- (a) no pig or carcase is moved to or from the premises where the pig or carcase in respect of which notification was made is located; and

- (b) no thing likely to spread swine vesicular disease is moved to or from those premises;
  - (c) a person who has contact with a pig or carcase on those premises takes, before leaving the premises, the biosecurity measures needed to reduce the risk of spread swine vesicular disease; and
  - (d) a person who is on a part of those premises that may be contaminated with swine vesicular disease virus takes such biosecurity measures.
- (3) This article applies until—
- (a) a veterinary inspector informs a person to whom it applies (orally or otherwise) that the presence of the virus is not suspected; or
  - (b) the premises on which the pig or carcase in respect of which notification was made is kept are designated as suspected or infected premises.

## CHAPTER 2

### Suspicion

#### Suspected premises

**18.**—(1) An inspector must by notice to the occupier designate premises as suspected premises on suspicion that—

- (a) a pig on the premises has been exposed to swine vesicular disease virus;
  - (b) a pig on the premises has been infected, or carcase on the premises contaminated, with swine vesicular disease virus (whether or not after notification under this Order); or
  - (c) the premises have been exposed to, or are contaminated with, swine vesicular disease virus.
- (2) Schedule 1 shall apply to suspected premises.
- (3) A veterinary inspector must on suspected premises being designated—
- (a) immediately take all steps, including testing needed to determine whether or not any ground for suspicion is established; and
  - (b) commence an epidemiological inquiry.

(4) Paragraph (1) does not apply during any period in which measures on suspicion of foot-and-mouth disease under Schedule 2 to the Foot-and-Mouth Disease (Scotland) Order 2006<sup>(4)</sup> apply to premises that would otherwise be designated as suspected premises.

#### Temporary control zone

**19.**—(1) The Scottish Ministers may on a designation as suspected premises declare a temporary control zone around the premises.

(2) The zone must be of such extent as the Scottish Ministers consider necessary to prevent or reduce the risk of the spread of swine vesicular disease.

(3) No person shall move a pig from premises in the zone, except in accordance with a licence granted by a veterinary inspector.

(4) The declaration may apply, in all or part of the zone, such other measure of a type listed in Schedule 1 as the Scottish Ministers consider necessary to prevent or reduce the risk of the spread of swine vesicular disease.

(5) The zone ceases to exist—

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(4) S.S.I. 2006/44, amended by S.S.I. 2007/429 and 455.

- (a) on revocation of the designation as suspected premises, or (if more than one) the last such premises in the zone;
- (b) in respect of any area subsequently incorporated into a protection or surveillance zone.

### **Suspicion not established**

**20.**—(1) This article applies if a veterinary inspector is satisfied that a suspicion that led to a designation as suspected premises is not established.

- (2) The veterinary inspector may by notice to the occupier of the premises require the occupier to—
  - (a) cleanse and disinfect any part of the premises, or any thing on the premises;
  - (b) carry out any other measure that the veterinary inspector considers necessary in order to reduce or prevent the risk of the spread of swine vesicular disease.
- (3) The veterinary inspector must—
  - (a) by notice to the occupier revoke the designation as suspected premises—
    - (i) with immediate effect; or
    - (ii) forthwith after a condition in paragraph (2) is met; and
  - (b) discontinue the epidemiological inquiry in respect of those premises.

### **Seropositive pigs**

- 21.**—(1) This article applies if—
- (a) testing at suspected premises shows that there are seropositive pigs on the premises; and
  - (b) the suspicion in respect of swine vesicular disease virus is not established.
- (2) The Scottish Ministers must undertake further investigations, and in particular must—
- (a) take further samples after a period of at least 28 days from the date of the last seropositive sample; and
  - (b) test those samples.
- (3) The Scottish Ministers must if any test shows that swine vesicular disease exists, confirm that the premises are infected premises.
- (4) The Scottish Ministers must, if the last test carried out under paragraph (2) shows no evidence of swine vesicular disease virus, ensure that all seropositive pigs are—
- (a) killed and destroyed under the supervision of an inspector; or
  - (b) slaughtered, separately from other pigs, in a slaughterhouse approved for that purpose by the Scottish Ministers.
- (5) A veterinary inspector must revoke the designation as suspected premises following destruction or slaughter of pigs under paragraph (4).

## **CHAPTER 3**

### **Infection**

#### **Infected premises**

**22.**—(1) The Scottish Ministers must, taking account of any results from testing at suspected premises, declare premises to be infected premises if—

- (a) swine vesicular disease virus is isolated in a pig or on the premises;

- (b) a seropositive pig and, in addition, a pig showing clinical signs of swine vesicular disease are on the premises; or
- (c) there is a direct epidemiological link with infected premises and, in addition, a pig on the premises—
  - (i) is seropositive; or
  - (ii) shows clinical signs of swine vesicular disease.
- (2) The Scottish Ministers may declare premises to be infected premises if—
  - (a) a pig on the premises shows clinical signs of swine vesicular disease; and
  - (b) the distance between the premises and other infected premises is such that it is more likely than not that such signs are a result of the presence of the disease.

### **Primary control measures**

- 23.**—(1) The Scottish Ministers must immediately on declaring infected premises—
- (a) kill all pigs on the premises; and
  - (b) remove all carcasses, tissue and blood from the premises, and dispose of them in such a manner as to avoid the risk of swine vesicular disease virus spreading.
- (2) The occupier of infected premises must, immediately after application of the measures in paragraph (1), disinfect the premises by spraying with disinfectant—
- (a) all housing, buildings and equipment to which a pig has had access;
  - (b) all manure, bedding and foodstuffs used by a pig on the premises;
  - (c) any other thing which the inspector considers may have been contaminated during slaughter,
- and ensure that disinfectant remains on the sprayed surfaces or material for at least 24 hours.
- (3) Schedule 1 shall apply, or shall continue to apply, to infected premises.

### **Secondary control measures**

- 24.**—(1) The Scottish Ministers may by notice require the occupier of infected premises to cleanse and disinfect the premises (“disinfection notice”).
- (2) The disinfection notice must specify a reasonable period during which the required measures must be completed.
- (3) If the occupier does not comply with the disinfection notice then the Scottish Ministers may arrange for it to be complied with, and recover the cost of doing so from the occupier.

### **Cleansing and disinfection at infected premises**

- 25.**—(1) An occupier who is required to cleanse or disinfect infected premises must do so as directed by a veterinary inspector.
- (2) In particular, but without prejudice to that generality, a veterinary inspector may direct that—
- (a) all manure, bedding and contaminated food are removed from buildings, stacked and sprayed with disinfectant;
  - (b) slurry is treated by a method suitable for inactivating the virus;
  - (c) surfaces have grease and other dirt removed by soaking with a degreasing agent, and are pressure washed with water;
  - (d) sprayed surfaces are re-sprayed with disinfectant;



- (e) surfaces are treated (or re-treated) using a flame gun;
- (f) damaged floors and walls are repaired.

### **Release notice**

**26.**—(1) A veterinary inspector must give notice to the occupier that premises are not infected premises (“release notice”) in accordance with this article.

(2) A release notice may not be given until the Scottish Ministers are satisfied that sufficient time has elapsed for the virus to have decayed to the extent that it will no longer infect a pig.

(3) If no pig is to be kept on the premises, a release notice must be issued on completion of the control measures.

(4) If a pig is to be kept on the premises, a release notice must be issued on completion of—

- (a) the control measures; and
- (b) testing with pigs in accordance with article 27.

(5) If a release notice is issued under paragraph (3) then no pig may be kept on the premises without approval by a veterinary inspector.

(6) In this article and article 27, “control measures” means the measures in article 23(1) and (2), and any measure required under article 24.

### **Testing with pigs**

**27.**—(1) A pig must not be moved to infected premises until a veterinary inspector confirms by notice to the occupier that the control measures are completed to the satisfaction of the inspector.

(2) A notice under paragraph (1) may not be issued until 28 days after completion of the control measures.

(3) The movement of pigs to the premises must, unless licensed under paragraph (6), start with the introduction of a limited number of pigs (“sentinel pigs”) which have been—

- (a) tested at the expense of the occupier; and
- (b) found to be negative for the presence of antibodies against swine vesicular disease virus.

(4) The sentinel pigs must be—

- (a) placed throughout the premises, as directed by a veterinary inspector;
- (b) examined, and sampled for serological testing, by a veterinary inspector 28 days after placement; and
- (c) tested for disease.

(5) If sentinel pigs show no signs of swine vesicular disease, or have not developed antibodies after testing under paragraph (4), then a release notice may be issued.

(6) In the case of indoor premises, a veterinary inspector may license the movement of a pig to the infected premises without the introduction of sentinel pigs, but the—

- (a) licensed pigs (if more than one) must be introduced over a period of 8 consecutive days;
- (b) licensed pig must come from premises outside a protection zone or surveillance zone; and
- (c) licensed pig must have been tested at the expense of the licence holder (or applicant, if applicable) within 14 days before movement, and be seronegative.

(7) Where a pig is moved to the premises conform to a licence under paragraph (6)—

- (a) a veterinary inspector must examine the pig at least 28 days after it is moved;

- (b) a veterinary inspector must sample and carry out a serological test on the pig, or a statistically valid number of pigs (if more than one), at the earliest 28 days after the arrival of the pig (or last pig); and
  - (c) no pig may leave the premises for a period of 60 days after the arrival of the pig (or last pig).
- (8) If licensed pigs show no signs of swine vesicular disease, or have not developed antibodies after testing under paragraph (7), then a release notice may be issued 60 days after the arrival of the pig (or last pig) on the infected premises.

## CHAPTER 4

### Protection and surveillance zones

#### **Protection and surveillance zones**

**28.**—(1) The Scottish Ministers must, unless paragraph applies, declare a protection zone and a surveillance zone where premises are declared to be infected premises.

- (2) The Scottish Ministers may declare zones where the infected premises are—
  - (a) a slaughterhouse;
  - (b) a veterinary surgery where a pig is present for examination;
  - (c) a place where a pig is kept temporarily that the Scottish Ministers consider is not a centre of infection.
- (3) A protection zone must have a radius of at least 3 kilometres, and a surveillance zone must have a radius of at least 10 kilometres, both centred on the part of the infected premises that the Scottish Ministers consider appropriate for disease control purposes.
- (4) The Scottish Ministers must ensure that—
  - (a) premises within a zone where a pig is kept are identified as soon as possible;
  - (b) a veterinary inspector visits all such premises within a protection zone as soon as possible, and—
    - (i) inspects, and if necessary, examines all pigs at the premises; and
    - (ii) collects such samples as the veterinary inspector considers necessary.
- (5) Schedule 2 shall apply in a protection zone.
- (6) Schedule 3 shall apply in a surveillance zone.
- (7) If the Scottish Ministers revoke a protection zone, without revoking the corresponding surveillance zone, then the area formerly in the protection zone is included in the surveillance zone.

#### **Declarations where swine vesicular disease is outside Scotland**

**29.**—(1) Where a protection zone or a surveillance zone (or an equivalent zone) is established in England in relation to swine vesicular disease, the Scottish Ministers must immediately declare a—

- (a) protection zone to cover at least such area in Scotland as is within 3 kilometres of the centre of the protection zone established in England; and
  - (b) surveillance zone to cover at least such area in Scotland as is within 10 kilometres of the centre of the surveillance zone established in England.
- (2) The Scottish Ministers may declare a protection zone and a surveillance zone on being satisfied that swine vesicular disease exists on any premises in England, that is 10 or more kilometres from Scotland, or Wales.

### **Closing rights of way in a protection zone**

**30.**—(1) An inspector may, if approved by the Scottish Ministers, close any right of way (including a public footpath) in a protection zone by displaying a notice to that effect on the way.

(2) Only—

- (a) the occupier of the land across which the right of way lies;
- (b) a person approved by the occupier; or
- (c) a person entering under the authority of a licence granted by an inspector,

may use that right of way.

(3) No person may remove or alter a notice displayed under this article except as instructed by an inspector.

(4) The closure continues until—

- (a) a declaration of a protection zone is revoked; or
- (b) all relevant notices are removed by, or as instructed by, an inspector.

### **Revoking declaration of protection or surveillance zone**

**31.** The Scottish Ministers must not revoke a declaration of a protection zone or a surveillance zone until—

- (a) cleansing and disinfection as required by this Order has been carried out at all infected premises in the zone;
- (b) premises with pigs in the zone have been visited by a veterinary inspector, who has—
  - (i) inspected and as necessary examined the pigs; and
  - (ii) collected such samples as the inspector considers necessary; and
- (c) all such samples have been tested with negative results.

### **Publicity**

**32.**—(1) The Scottish Ministers must publicise—

- (a) the extent of a zone declared under this Order;
- (b) the nature of the restrictions and requirements relating to the zone;
- (c) the date of a declaration of a zone, or any further declaration amending or revoking that declaration.

(2) An inspector or an officer of the Scottish Ministers may erect signs where a road (public or otherwise) enters a zone, indicating the existence of the zone.

## **CHAPTER 5**

### **Vaccination**

#### **Prohibition on vaccination**

**33.** No person may vaccinate a pig against swine vesicular disease except—

- (a) in accordance with article 34; or
- (b) under the authority of a licence granted by the Scottish Ministers.

**Vaccination zone**

**34.**—(1) The Scottish Ministers may declare a vaccination zone.

(2) A veterinary inspector may serve a vaccination notice on the keeper of a pig on premises outside the zone.

(3) The keeper of a pig—

- (a) on premises inside the zone; or
- (b) who is served with a notice,

must ensure that the pig is vaccinated in accordance with the declaration or notice.

**Vaccinated pigs**

**35.**—(1) A person vaccinating a pig must identify that pig as a vaccinate, in the manner instructed by an inspector if such an instruction is given.

(2) No person may move a pig from a vaccination zone except for slaughter at a slaughterhouse approved for that purpose by the Scottish Ministers.

(3) No person may move a vaccinated pig not in a vaccination zone from the—

- (a) premises on which it was vaccinated; or
- (b) if a licence permitted vaccination in an area, the area where vaccination is permitted,

except for slaughter at a slaughterhouse approved for that purpose by the Scottish Ministers.

**CHAPTER 6****Slaughterhouses****Notification of suspicion at a slaughterhouse**

**36.**—(1) This article applies where—

- (a) notification is given to the Divisional Veterinary Manager in respect of a pig or carcase at a slaughterhouse; and
- (b) no notice under article 37 has been given to the occupier of the slaughterhouse.

(2) The occupier must ensure that, unless approved by a veterinary inspector—

- (a) no pig is moved to or from the slaughterhouse;
- (b) a suspect pig is kept alive; and
- (c) if a suspect pig has been slaughtered at the date of notification that the carcase of that pig (and that of any pig in contact with that carcase) is—
  - (i) stored separately; and
  - (ii) does not come into contact with a pig, or with a carcase not from a suspect pig; and
- (d) a carcase in respect of which notification is given is stored separately.

(3) In this article and article 37, “suspect pig” means a pig in respect of which notification is given, a pig from the same premises as that pig, and any pig in contact with such pigs.

**Control measures at a slaughterhouse**

**37.**—(1) This article applies where notification is given to the Divisional Veterinary Manager in respect of a pig or carcase at a slaughterhouse.

(2) A veterinary inspector must examine—

- (a) a suspect pig;
  - (b) the carcass of such a pig (and that of any pig in contact with that carcass); and
  - (c) a carcass in respect of which notification is given.
- (3) A veterinary inspector who is satisfied after such examination that neither swine vesicular disease nor the virus is present at the slaughterhouse must give notice to the occupier that article 36 does not apply.
- (4) If a veterinary inspector suspects after such examination that either swine vesicular disease or the virus is present at the slaughterhouse then paragraphs (5) to (9) apply.
- (5) A veterinary inspector must ensure that—
- (a) a suspect pig is slaughtered separately from any other pig; and
  - (b) the carcass of a suspect pig is stored separately from a carcass of a pig other than a suspect pig.
- (6) The occupier of the slaughterhouse must cleanse and disinfect the premises after such slaughter as directed by notice by a veterinary inspector.
- (7) A veterinary inspector must take samples from 2 or more—
- (a) pigs at the slaughterhouse;
  - (b) pigs at the premises of origin of a suspect pig; and
  - (c) carcasses at the slaughterhouse,
- and test them for evidence of swine vesicular disease or the virus.
- (8) If the test results are negative, and a veterinary inspector is satisfied that paragraph (6) has been complied with, then the inspector must give notice to the occupier that article 36 does not apply.
- (9) If a test result is positive then—
- (a) the Scottish Ministers must destroy a carcass stored under article 36 and this article;
  - (b) the occupier must cleanse and disinfect a place where the carcass was stored,
- and a veterinary inspector, if satisfied that paragraph (6) and sub-paragraph (b) have been complied with, must give notice to the occupier that article 36 does not apply.

## PART 5

### Inspection and enforcement

#### **Powers of entry**

**38.**—(1) An inspector may, on producing a duly authenticated authorisation if required, enter any premises at any reasonable hour for the purpose of ensuring compliance with this Order.

- (2) The inspector may be accompanied by—
- (a) such other persons as the inspector considers necessary; and
  - (b) any representative of the European Commission acting for the purpose of the enforcement of a Community obligation.

#### **Powers of an inspector**

- 39.** An inspector entering premises may—
- (a) inspect the premises and any plant, machinery or equipment;

- (b) inspect or examine any animal or thing;
- (c) take samples;
- (d) seize and destroy any thing that may spread the swine vesicular virus;
- (e) detain or isolate any animal or thing;
- (f) mark for identification purposes any animal or thing;
- (g) carry out any inquiries, examinations and tests;
- (h) have access to, and inspect and copy any documents or records (in whatever form they are held) relating to this Order, and remove them to enable them to be copied;
- (i) inspect and check the operation of any computer and any associated apparatus or material that is or has been in use in connection with records; and
- (j) require the cleansing and disinfection of any part of the premises or any thing.

#### **Notices relating to movement**

**40.**—(1) If an animal has been moved in contravention of any provision of this Order or any approval, licence, notice or declaration under this Order, a veterinary inspector may serve a notice on a person—

- (a) detaining that animal on any premises, or any other animals on the premises; or
- (b) requiring the keeper to move the animal from any premises to the premises specified in the notice.

(2) If an animal has been moved to any premises under a licence, a veterinary inspector may serve a notice on the occupier of the premises imposing such movement restrictions relating to animals on the premises as the inspector considers are necessary to reduce or prevent the risk of spread of swine vesicular disease.

#### **Powers of inspectors in case of default**

**41.** If any person fails to comply with a requirement in or under this Order, an inspector may take such steps at the expense of that person as the inspector considers necessary to ensure the requirement is met.

#### **Obstruction**

**42.** A person must not—

- (a) intentionally obstruct a person acting in the execution of this Order;
- (b) without reasonable cause, fail to give to a person acting in the execution of this Order any assistance or information that that person may reasonably require under this Order;
- (c) furnish to a person acting in the execution of this Order any information knowing it to be false or misleading; or
- (d) fail to produce a record when required to do so to a person acting in the execution of this Order.

#### **Offences by bodies corporate**

**43.**—(1) Where a body corporate is guilty of an offence under this Order, and that offence is proved to have been committed with the consent or connivance of, or to have been attributable to any neglect on the part of—

- (a) an officer of the body corporate; or

(b) any person who was purporting to act in such capacity, that person, as well as the body corporate, is guilty of the offence and liable to be proceeded against and punished accordingly.

(2) If the affairs of a body corporate are managed by its members, paragraph (1) applies in relation to the acts and defaults of members in connection with their functions of management as if they were directors of the body.

(3) “Officer”, in relation to a body corporate, means a director, member of the committee of management, chief executive, manager, secretary or other similar officer of the body, or a person purporting to act in any such capacity.

(4) “Body corporate” includes a Scottish partnership and, in relation to such a partnership, a reference to an officer of a body corporate is a reference to a partner.

### **Enforcement**

**44.**—(1) This Order is enforced by the local authority.

(2) The Scottish Ministers may direct, in relation to cases of a particular description or to particular cases, that they will enforce this Order instead of the authority.

### **Revocations and consequential amendment**

**45.**—(1) The following Orders are revoked—

- (a) the Swine Vesicular Disease Order 1972<sup>(5)</sup>;
- (b) the Swine Vesicular Disease (Compensation) Order 1972<sup>(6)</sup>; and
- (c) the Swine Vesicular Disease (Amendment) Order 1973<sup>(7)</sup>.

(2) In Schedule 1 to the Products of Animal Origin (Disease Control) (Scotland) Order 2008<sup>(8)</sup>, for paragraph 5 substitute—

“**5.** The Swine Vesicular Disease (Scotland) Order 2009.”.

St Andrew’s House,  
Edinburgh  
30th April 2009

*RICHARD LOCHHEAD*  
A member of the Scottish Executive

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<sup>(5)</sup> S.I.1972/1980.  
<sup>(6)</sup> S.I. 1972/2014.  
<sup>(7)</sup> S.I. 1973/101.  
<sup>(8)</sup> S.S.I 2008/158.